

with the requirements of this paragraph (b)(2)(ii) where the documentation is furnished, completed, or corrected prior to the end of the calendar year in which the payment is made and prior to the time the payor furnishes a Form 1099 to the payee with respect to the payment for which the withholding erroneously occurred. The amount of the refund will be the amount erroneously withheld less the amount of tax required to be withheld, if any, under chapter 3 of the Internal Revenue Code and the regulations under that chapter. With respect to the amount of the payment to the foreign person and the amount of tax required to be withheld under chapter 3 of the Internal Revenue Code (and the regulations thereunder), returns must be made in accordance with the requirements of § 1.1461-1 (b) and (c) of this chapter.

[T.D. 8637, 60 FR 66133, Dec. 21, 1995, as amended by T.D. 8734, 62 FR 53494, Oct. 14, 1997]

#### § 31.6413(b)-1 Overpayments of certain employment taxes.

For provisions relating to the adjustment of overpayments of tax imposed by section 3101, 3111, 3201, 3221, or 3402, see § 31.6413(a)-2. For provisions relating to refunds of tax imposed by section 3101, 3111, 3201, or 3221, see §§ 31.6402(a)-1 and 31.6402(a)-2. For provisions relating to refunds of tax imposed by section 3402, see §§ 31.6402(a)-1 and 31.6414-1.

#### § 31.6413(c)-1 Special refunds.

(a) *Who may make claims*—(1) *In general.* (i) If an employee receives wages, as defined in section 3121(a), from two or more employers in any calendar year:

(a) After 1954 and before 1959 in excess of \$4,200,

(b) After 1958 and before 1966 in excess of \$4,800,

(c) After 1965 and before 1968 in excess of \$6,600,

(d) After 1967 and before 1972 in excess of \$7,800,

(e) After 1971 and before 1973 in excess of \$9,000,

(f) After 1972 and before 1974 in excess of \$10,800,

(g) After 1973 and before 1975 in excess of \$13,200, or

(h) After 1974 in excess of the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year,

the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed by section 3101 with respect to such wages and deducted therefrom (whether or not paid) exceeds the employee tax with respect to the amount specified in (a) through (h) of this subdivision for the calendar year in question. Employee tax imposed by section 3101 with respect to tips reported by an employee to his employer and collected by the employer from funds turned over by the employee to the employer (see section 3102(c)) shall be treated, for purposes of this paragraph, as employee tax deducted from wages received by the employee. If the employee is required to file an income tax return for such calendar year (or for his last taxable year beginning in such calendar year) he may obtain the benefit of the special refund only by claiming credit as provided in § 1.21-2 of this chapter (Income Tax Regulations).

(ii) The application of this subparagraph may be illustrated by the following examples:

*Example 1.* Employee A in the calendar year 1968 receives taxable wages in the amount of \$5,000 from each of his employers, B, C, and D, for services performed during such year (or at any time after 1936), or a total of \$15,000. Employee tax (computed at 4.4 percent, the aggregate employee tax rate in effect in 1968) is deducted from A's wages in the amount of \$220 by B and \$220 by C, or a total of \$440. Employer D pays employee tax in the amount of \$220 without deducting such tax from A's wages. The employee tax with respect to the first \$7,800 of such wages is \$343.20. A is entitled to a special refund of \$96.80 (\$440 minus \$343.20). The \$5,000 of wages received from employer D and the \$220 of employee tax paid with respect thereto have no bearing in computing A's special refund since such tax was not deducted from his wages.

*Example 2.* Employee E in the calendar year 1968 performs services for employers F and G, for which E is entitled to wages of \$7,800 from each employer, or a total of \$15,600. On account of such services, E in 1967 received an advance payment of \$1,800 of wages from